SINGLE BENCH

(8)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

WRIT PETITION NO. 3811 /2005

PETITIONERS : 1. Gurudayal Singh, S/o Buta Singh,

2. Avtar Singh, S/o Gurudayal Singh,

3. Mukhtayar Singh, S/o Gurudayal Singh,

4. Rajbahadur, S/o Ramchandra,

5. Baijnath, S/o Radheshyam,

6. Prithvipal, S/o Gurudayal Singh,

7. Vinod Kumar, S/o Shyamshankar,

8. Sameer Kumar, S/o Shambhoo Sharan,

9. Sanjay S/o Nadam

Petitioner Nos. 1, 2, 3, 6, 8 & 9 are R/o Bishrampur, petitioner nos. 4 & 7 are R/o Ambikapur and petitioner no. 5 is R/o Village Satpata, all of District Surguja (C.G.)

P.R. No. 3927/05 Presented by Shri S.K. Sinha dated 10-8-05

CLERK to A.G. BILASPUR 10.8.05 UNDER-CHARGED

-VERSUS-

RESPONDENTS :State of Chhattisgarh through Collector, Surguja (C.G.)

WRIT UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A SUITABLE WRIT, ORDERS OR DIRECTION.

XI-HC-78

(83)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP No. 3811/05 ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	22.8.2005 Shri Rajeev Shrivastava, counsel for the petitioners. Shri Sandeep Dubey, Govt. Advocate for the State. By this writ petition the petitioners have questioned the legality, propriety and correctness of order dated 26.3.2005 passed by the Board of Revenue in Revenue Appeal No.121/A-21/2002-03, order dated 17.4.2001 passed by the Commissioner, Bilaspur Division, Bilaspur in Case No.55/A-21/2000-01 and also the order dated 30.11.2000 passed by the Collector, Sarguja (Ambikapur) in Revenue Case No.51-A/21/1999-2000 whereby the Collector held that the transfer made by the petitioner No.1 in favour of petitioner Nos.2 to 9 of the disputed revenue land was illegal being contrary to the provisions of Section 165(7)(b) of the C.G. Land Revenue Code, 1959 and the same was affirmed by the Commissioner & Board of Revenue by the above orders. I have heard learned counsel for the petitioner Shri Shrivastava & learned Government Advocate Shri Dubey. The main argument of counsel for the petitioners is that neither of the revenue authorities of the above three Courts while passing the impugned orders considered the executive order dated 26.7.1984 (Annexure P-5) whereby the Bhumiswami rights were conferred on the Government land allottees. He also argued that in this case revenue authorities had invoked the provisions of Section 165 (7) (b) of C.G. Land Revenue Code while declaring the transfer	

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

84

मामला क्रमांक ... WP 3811/05 ... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

of land illegal, whereas, the above said provision was inserted on 28.10.1992 vide Amendment No.17 of 1992 and the land in question was already transferred by the petitioner No.1 in favour of petitioner Nos.2 to 9 on 16.3.1992 & 30.7.1992. Therefore, the above aspects were not considered by the revenue authorities. He further argued that the matter may be sent back to the Collector, Sarguja (Ambikapur) to pass order afresh after examining the import & effect of the executive order dated 26.7.1984 (Annexure P-5) and also in the light that land in question was transferred by the petitioner before the insertion of the provision of Section 165(7)(b) of C.G. Land Revenue Code, to which learned Government Advocate for the State / respondents Shri Sandeep Dubey has no objection.

Accordingly, the orders impugned are quashed and the matter is remanded back to the Collector, Sarguja (Ambikapur) to pass the orders afresh after considering the executive order dated 26.7.1984 (Annexure P-5) and provision of Section 165(7)(b) of the C.G. Land Revenue Code, 1959 as the same was inserted after the transfer of land by petitioner No.1.

With the direction aforesaid, the petition stands disposed of.

Consequently, M.(W.)P. No.3204/05 & I.A. No.7128/05 also stand disposed of. Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

roshan/-
27.8.05